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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

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10 SECURITIES AND EXCHANGE  
11 COMMISSION,

12 Plaintiff,

13 v.

14 PATH AMERICA, LLC., et al.,

15 Defendants, and

16 POTALA SHORELINE, LLC, et al.,

17 Relief Defendants.

CASE NO. C15-1350JLR

ORDER GRANTING MOTION  
FOR ORDER APPROVING SALE  
OF PROPERTY

18 The court, having reviewed Receiver Michael A. Grassmueck's<sup>1</sup> ("the Receiver")  
19 Motion for Order Approving Sale of Property ("Motion") (Mot. (Dkt. # 549)) and good  
20 cause appearing therefor, hereby ORDERS as follows:

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22 <sup>1</sup> Mr. Grassmueck is the court-appointed Receiver for Path America, LLC; Path America  
SnoCo, LLC; Path America Farmer's Market, LP; Path America KingCo, LLC; Path America  
Tower, LP; Path Tower Seattle, LP; Path Tower Seattle, LLC; Potala Shoreline, LLC; Potala

1 1. The Motion (Dkt. # 549) is hereby GRANTED;

2 2. The sale of the real property located at 1008 Lake Street South, Kirkland,  
3 Washington 98033 ("the Property"), more specifically described in the Purchase and Sale  
4 Agreement and Joint Escrow Instructions ("the Agreement") attached as Exhibit A to the  
5 Receiver's Declaration submitted concurrently with the Motion (Dkt. # 549-1), to Aegis  
6 Senior Communities, LLC ("Buyer") is CONFIRMED and APPROVED;

7 3. The purchase and sale of the Property to Buyer shall be on an "As-Is, Where-Is"  
8 basis, as set forth in the Agreement;

9 4. The court further finds as follows:

10 a. The negotiation, execution, delivery, and consummation of the Agreement was  
11 conducted in a manner appropriate under applicable law;

12 b. The Receiver provided adequate and sufficient notice for the Motion;

13 c. The consummation of the sale of the Property is in the best interests of the estate  
14 of the Receivership Entities;

15 d. Buyer has acted in good faith, the purchase and sale is undertaken by Buyer and  
16 the Receiver at arm's length, without collusion and in good faith, and Buyer is entitled to  
17 appropriate protections on account thereof;

18 5. The purchase price of \$10,100,000.00 for the Property is CONFIRMED and  
19 APPROVED;

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21 Village Kirkland, LLC; Dargey Development, LLC; Dargey Enterprises, LLC; Path Farmer's  
22 Market, LLC; and Dargey Holdings, LLC (collectively, "the Receivership Entities" or,  
individually, "the Receivership Entity"). (See Receivership Order (Dkt. # 88); Order Modifying  
Receivership (Dkt. # 375).)

1 6. The Receiver is authorized, empowered, and directed to immediately pay, upon  
2 closing of the sale, a commission of 1% of the final purchase price to broker Berkadia  
3 Real Estate Advisors;

4 7. If applicable, the Receiver is authorized, empowered, and directed to pay  
5 Buyer's "Break-Up Costs" as defined in the Agreement within ten (10) business days  
6 following closing to a third-party;

7 8. The sale of the Property to Buyer (i) is legal, valid, and effectively transfers the  
8 Property; (ii) will vest Buyer with all right, title, and interest to the Property free and  
9 clear of all "Removable Liens," other than "Permitted Exceptions," as those terms are  
10 defined in the Agreement; and (iii) constitutes a transfer for reasonably equivalent value  
11 and fair consideration under the laws of Washington state;

12 9. Upon and after the closing of the purchase and sale contemplated herein, claims  
13 arising out of any security interests or other liens, if any, against the Property shall attach  
14 to the net proceeds of the purchase and sale in the same amount and priority as such  
15 security interests and other liens had against the Property prior to the purchase and sale,  
16 and the rights of creditors against third parties, such as claims against guarantors of any  
17 debt owed by a Receivership Entity shall not be affected by this purchase and sale;

18 10. All persons holding or asserting a claim, of any nature, against a Receivership  
19 Entity, shall be barred from taking any actions against Buyer (as they existed  
20 immediately prior to closing of the purchase and sale) or the Property to recover such  
21 claim;

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1 11. Upon and after the closing of the purchase and sale contemplated herein,  
2 Buyer shall not be deemed to be (i) a successor to any Receivership Entity; (ii) a  
3 continuation of any Receivership Entity; or (iii) to have assumed any liability with  
4 respect to any claim, known or unknown, against any Receivership Entity or the estate of  
5 the Receivership Entities, except those expressly assumed in the Agreement;

6 12. The provisions of this Order are non-severable and mutually dependent;

7 13. The Receiver is immediately authorized, empowered, and directed to  
8 complete, consummate, and close the sale transaction, including executing any and all  
9 documents as may be necessary and appropriate to do so;

10 14. The Receiver is further authorized, empowered, and directed to executing and  
11 acknowledge the deed in the form attached in the Agreement as Exhibit D;

12 15. The Receiver is further authorized, empowered, and directed to transfer title  
13 and possession of the Property to Buyer and turn over possession of the Property to  
14 Buyer upon closing;

15 16. The Receiver may amend or otherwise modify the Agreement if Buyer or its  
16 designee consents in writing;

17 17. The terms of this Order shall be controlling but for subsequent immaterial  
18 amendments or modifications to this Agreement;

19 18. This Order shall be recorded; and

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1 19. This court retains exclusive jurisdiction to interpret and enforce the provisions  
2 of the Agreement and this Order, in all respects.

3 IT IS SO ORDERED.

4 Dated this 11<sup>th</sup> day of July, 2017.

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6 JAMES L. ROBART  
7 United States District Judge  
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